379 Phil. 999

FIRST DIVISION

[G.R. No. 135904, January 21, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. ALVIN TAN Y LAGAMAYO, ACCUSED-APPELLANTS.

D E C I S I O N

DAVIDE JR., C.J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner Alvin Tan (hereafter TAN) seeks his acquittal by a reversal of the 29 June 1998 decision[1] of the Court of Appeals in CA-G.R. CR No. 20688 which affirmed his conviction for violating Republic Act No. 6539, An Act Preventing and Penalizing Carnapping.[2] TAN's motion for reconsideration of said decision and motion for oral arguments were denied for lack of merit by the Court of Appeals in its 6 October 1998 resolution.[3] Said decision and resolution of the Court of Appeals affirmed the 19 December 1994 judgment of conviction against TAN by the Regional Trial Court, Branch 95, Quezon City in Criminal Case No. Q-93-45449.

TAN's indictment[4] for violation of Republic Act No. 6539 reads as follows:

> That on or about the 7th day of November, 1992, in Quezon City, Philippines, the above-named accused, with intent to gain and without the consent of the owner thereof, did, then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Mitsubishi Gallant car colored blue, bearing Plate No. CGS-723 owned by one P**HILIP SEE**, of undetermined value, to the damage and prejudice of said Philip See.

Upon his arraignment on 14 July 1993 and with the assistance of counsel, Tan pleaded not guilty to the charge. Trial immediately ensued as the parties waived the holding of a preliminary conference.

The trial court's terse recapitulation of the prosecution evidence proceeded in this manner:[5]

> xxx [P]rivate complainant Philip See is the registered owner of a 1987 Mitsubishi Gallant four-door valued at ₱420,000.00, bearing plate no. CGS-723, colored blue, and with motor no. 4G32-FG2704 and serial/chassis no. A161UL-3011. Sometime in March 1992, accused Alvin Tan was introduced to Philip by Alvin's fiancee, one Vienna Yu, and from then on, Philip and Alvin became friends and started to see each other on several occasions thereafter.
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> On November 7, 1992, about 9:30 a.m., Philip together with his wife Ruby See and Robert Chua (a neighbor) was at his place of residence xxx when Alvin arrived thereat. He made it known to Philip that he was

intending to buy Philip's aforesaid car and that he wanted to test-drive it. On account of their friendship and believing Alvin's assurance that he would return the car after he shall have test-driven it, Philip granted Alvin's request xxx. On thus getting hold of the car, Alvin sped away and never returned. In vain, Philip waited for Alvin to show up and return the car; Alvin simply did not show up, much less cause the return of the car.

Thus, Philip started to call up and look for Alvin at his office at Roosevelt Avenue, QC, but Alvin avoided him by refusing to answer the telephone calls or pretending he was not around; and Philip's attempts to see Alvin at his office similarly proved futile, for whenever Philip would go to said office, Alvin would refuse to see him. Dismayed though he was, Philip desisted as long as he could from reporting and complaining about the matter to the authorities; Philip still believed that being a friend, Alvin eventually would come around to returning the car to him. Meanwhile, sometime on March 5, 1993, with the assistance of some personnel of the Land Transportation Office (LTO), Philip was able to cause the car's 1993 renewal registration in the absence of the vehicle and he was issued the corresponding official receipt therefor.

Sometime on May 19, 1993, Philip again tried to see Alvin at his place at Roosevelt. Again Philip was told that Alvin was not around. One of Alvin's employees, however, advised Philip to the effect that the car was parked and hidden right behind Alvin's warehouse. The location of the warehouse having been given to him, Philip went to the place and at a distance of some five feet, he saw the vehicle parked at the rear end of the warehouse. To his shock and surprise, he saw that parts of the car, like the bumper, a door, and several interior accessories, had been dismantled and were already missing. Worse, several pieces of wood were piled on top of the car as if purposely hide and conceal it from view.

Still failing to recover his car, Philip on or about June 2, 1993, formally lodged a complaint for carnapping against Alvin before the QC police station. Some two days later, or on June 4, 1993, Philip reported the loss of his car to the Philippine National Police (PNP) Traffic Management Command and he accordingly signed the corresponding complaint sheets. Too, an alarm for the subject car was issued. To his further shock and consternation, Philip was informed by the PNP's Highway Patrol Group (HPG) that somebody had applied for a clearance to sell the car and that the applicant was made to appear as one Philip See. xxx Philip denied his alleged signature on the application and also denied having supposedly applied for clearance to sell his vehicle.

Meanwhile, acting on the complaint lodged by Philip against Alvin before the QC police station 1, the police authorities scheduled a visit to the place of Alvin, with Philip being asked by them to pinpoint and identify Alvin in the course thereof. Accordingly, at Alvin's place, he was identified and invited by the police to the station for investigation. While still at Alvin's office, Philip saw on top of Alvin's table what Philip believed to be accessories from his car, consisting of a two-way radio antenna and car stereo, which appeared to him to have been dismantled from the subject car.

> At that time Alvin took the car supposedly to test-drive it on November 7, 1992, the car was in top condition, had low mileage, was 'fully loaded' with complete interior accessories including an imported Kenwood stereo, and had imported magwheels.

Expectedly, Tan impugned the prosecution's version and presented a completely diverse tale.

Firstly, TAN asserted that Philip See (hereafter SEE) filed the complaint to purposely collect a debt from him and wittingly use the court as collecting agent. Secondly, TAN claimed that SEE instituted the complaint in revenge of the quarrels they had over TAN’s girlfriend whom SEE wooed, and (2) in retaliation against the complaint for grave threats and illegal possession of firearms filed by one of TAN's employees against SEE.

TAN then traced this legal predicament to the time when his girlfriend introduced him to SEE in March 1992. TAN and SEE instantly became friends for they shared a similar acumen for business and passion for target shooting. Inevitably, they engaged in and entered into several business transactions which resulted in TAN's indebtedness to SEE in the amount of ₱800,000. Inspite of this, SEE still offered to sell the subject Mitsubishi Galant to TAN for the amount of ₱280,000. TAN declined the offer. SEE persisted to the extent that he brought the car to TAN's residence on 26 November 1992 and generously suggested that he would just add into the latter's existing indebtedness to him the car's purchase price.

Sometime in February 1993, SEE tried to collect the car's purchase price but TAN had still no funds. So TAN suggested that he would apply with a bank for a car loan using the car as security and apply the proceeds of said loan in payment for the car. SEE agreed. Subsequently, TAN submitted in his name a loan application with the BPI Family Bank in Makati. In compliance with the requirements of the loan application, SEE personally supervised the car's appraisal and inspection on 19 March 1993. TAN additionally maintained that he and SEE signed a deed of sale covering the subject automobile but that TAN did not receive a copy of said deed upon SEE's pretext that he would use it for facilitation of the loan.

The bank approved the loan application but only in the amount of ₱129,000. Naturally, SEE considered the amount insufficient and hence, refused to accept the terms of the loan. Consequently, TAN did not seek the release of the loan.

The friendship eventually soured and the resulting "misunderstanding" with SEE impelled TAN on 19 May 1993 to instruct his warehouse overseer to return the car to SEE's residence. TAN's employee drove the car to SEE's house, parked the car outside the gate and then handed over the keys of the car to SEE's wife, Ruby.

Tan was therefore surprised when on 14 June 1993, police officers arrived at his residence and invited him to the police station; this, to TAN's additional bewilderment, was in connection with SEE's complaint for the carnapping of the car he already returned. TAN peacefully went with the police authorities to the station. [6]

Weighing the evidence thus proffered, the trial court believed in the prosecution’s

version, particularly in SEE's clear, positive, and straightforward account - which said court found amply demonstrated - that SEE had withdrawn the consent initially given to TAN when the latter went beyond test-driving and appropriated the car for his own use and benefit. To the trial court, TAN's failure to return the car and his consequent appropriation thereof constituted unlawful taking -- the gravamen of the crime charged. It then concluded that TAN was obviously actuated by intent to gain. The trial court then considered as completely undeserving of belief, TAN's supposition that despite his heavy indebtedness and given his increasing difficulty to pay his loans, SEE had benignly extended him credit, delivered to him the subject car and bestowed upon him the ultimate privilege of paying the car at his convenience. Thus, in a decision promulgated on 19 January 1994, the trial court convicted TAN, the dispositive portion of which read as follows:[7]

> WHEREFORE, the Court finds accused Alvin Tan y Lagamayo guilty beyond reasonable doubt of the crime of carnapping charged herein, defined and punished in Sec. 2, in connection with Sec. 14, both of Rep. Act No. 6539 xxx and, accordingly, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of from fourteen years, eight months, and fifteen days as minimum, to seventeen years and four months as maximum; to restore to the offended party, Philip See, the subject car x x x or in default thereof, to indemnify said offended party in the sum of four hundred twenty thousand pesos; and, to pay the costs, without prejudice to the application of Rep. Act No. 6127 in accused's favor.

TAN filed a motion for new trial on the ground of newly discovered evidence which was granted by the trial court in its 4 July 1994 order. SEE then moved for reconsideration, but was denied by the trial court in its 1 March 1995 order. SEE challenged these aforementioned orders of the trial court in a petition for certiorari filed with the Court of Appeals. On 23 August 1995, the appellate court gave due course to and granted the petition. TAN assailed the decision of the Court of Appeals through a petition for review before the Supreme Court, which promptly dismissed the petition.[8]

Subsequently, based on TAN's "Notice of Appeal *Ex Abundanti Ad Cautelam,*" the trial court ordered the elevation of the records of the case to the Court of Appeals.

Meanwhile, TAN challeged the Court of Appeals' affirmance of his conviction. He argues before this Court that the appellate court erred in (1) ignoring the peculiar nature of the law on carnapping, (2) disregarding that there was no unlawful taking, and (3) rejecting circumstances on record which, if considered, would be sufficient to acquit him on reasonable doubt.

In invoking the specificity of the carnapping law, TAN contends that the Court of Appeals should not have employed as bases for his conviction the basic principles in theft enunciated in (1) *People v. Roxas*,[9] where rice was received, carted away and consumed, (2) U.S. v. de Vera,[10] where a bar of gold and P200 in bank notes were received for examination and changing into coins but instead appropriated, and (3) *People v. Trinidad,*[11] where a ring was received for pledging but was sold and the proceeds thereof appropriated for the personal use of receiver.